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No. 94-50

In the Supreme Court of the United States

OCTOBER TERM, 1994

ROBERT W. RITCHIE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the courts below correctly enforced an Internal Revenue Service summons seeking identifying information with respect to cash payments made to a law firm in excess of $10,000.

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ROBERT W. RITCHIE, PETITIONER

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UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-21a) is reported at 15 F.3d 592. The opinion of the district court (Pet. App. 22a-27a) is unreported. The opinion of the district court in the pre-enforcement proceeding (Pet. App. 28a-40a) is reported at 777 F. Supp. 590.

JURISDICTION

The decision of the court of appeals was entered on February 3, 1994. A petition for rehearing was denied on April 4, 1994. The petition for a writ of certiorari was filed on July 5, 1994 (a Tuesday). The jurisdiction of this Court is invoked under 28 U.S.C. 1254(l).

STATEMENT

1. Petitioner Robert Ritchie practices law with a firm in Knoxville, Tennessee.[1] His practice consists primarily of criminal defense work. In 1989, petitioner received cash payments from three clients in the respective amounts of $25,000, $10,000, and $13,000. 26 U.S.C. 6050I(a) requires any person who receives more than $10,000 in cash in a business transaction to file a return (known as Form 8300) identifying the payor, the amount, and the nature of the transaction. See 26 U.S.C. 6050I(b). Petitioner filed three incomplete IRS Forms 8300 notifying the Internal Revenue Service of these cash payments. In violation of 26 U.S.C. 6050I(b)(2), however, petitioner refused to disclose the nature of the services rendered and the name, address and taxpayer identification number for each of the three clients. Instead, petitioner stated on the Forms 8300 that he was bound by the attorney-client privilege, the Fifth and Sixth Amendments and the Tennessee Code of Professional Responsibility not to disclose this information. An Internal Revenue Service summons was served on petitioner, directing him to produce the information missing from the Forms 8300. Petitioner refused to comply (Pet. App. 2a, 23a).

2. Petitioner's three unnamed clients (John Doe I, John Doe II, and John Doe III) filed a petition in district court to quash the summons. Petitioner's law firm intervened in support of its clients' position. The John Does contended that the summons did not seek infor-

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[1] The caption to the petition lists Ritchie and John Doe I, John Doe II and John Doe III as petitioners. The petition itself, however, indicates that it is filed only on behalf of petitioner Ritchie and his law firm (Pet. 1, 28).

mation that was relevant to the tax liability of the firm but was instead seeking information to identify the payors. They claimed that the law firm was therefore a "third-party recordkeeper" within the meaning of 26 U.S.C. 7609(a)(3) and that the summons was invalid as a "John Doe" summons because the IRS had not obtained an *ex parte* order from a court prior to its issuance, as required by 26 U.S.C. 7609(f) and (h)(2). See Pet. App. 3a, 31a-32a.

The district court (Judge Jarvis) granted the government's motion to dismiss the petition to quash the summons. The court concluded that the law firm was not summoned in its capacity as a third-party recordkeeper under 26 U.S.C. 7609. Instead, the summons was issued to determine the law firm's compliance with 26 U.S.C. 6050I (Pet. App. 37a). The court held that petitioner therefore may not challenge the summons in a pre-enforcement action (*id.* at 33a-40a). Neither the law firm nor the John Doe petitioners appealed from the order dismissing their pre-enforcement challenge to the summons.

3. When petitioner thereafter failed to comply, the government brought this action to enforce the summons. The case was assigned to Judge Hull. The petition and accompanying declaration of the Internal Revenue Service again asserted that the investigation was being conducted to determine the correctness of the Forms 8300 filed by petitioner and his law firm and to determine the firm's liability, if any, for penalties under 26 U.S.C. 6721-6723 (C.A. App. 5-9, 10-13).

In response, petitioner again asserted that enforcement of the summons would violate the attorney-client privilege, the Fifth and Sixth Amendments, and the Tennessee Code of Professional Responsibility. He also argued that the only reason the IRS was seeking to

enforce the summons was to obtain information about his John Doe clients. Because the government had not complied with the John Doe summons provisions of 26 U.S.C. 7609, respondent argued that the summons should not be enforced. John Does I, II and III intervened and raised similar arguments.

After an evidentiary hearing, the district court issued an enforcement order. The court agreed with the decisions rejecting petitioner's constitutional arguments (Pet. App. 24a-25a, citing *United States* v. *Leventhal*, 961 F.2d 936 (11th Cir. 1992); *United States* v. *Goldberger & Dubin, P.C.*, 935 F.2d 501 (2d Cir. 1991)). On the John Doe summons issue, Judge Hall concluded—contrary to the decision of Judge Jarvis at the pre-enforcement hearing (Pet. App. 37a)—that the IRS was not conducting an investigation into the correctness of the Forms 8300 filed by petitioner but was instead making "a general search for the identities of cash-paying clients" (*id.* at 26a). Treating the case as if it were a Section 7609(f) proceeding for a third-party John Doe summons, Judge Hull concluded that there was sufficient information in the record to warrant enforcement of the summons (Pet. App. 27a).

4. The court of appeals affirmed (Pet. App. 1a-21a). The court rejected the government's argument that the decision at the pre-enforcement hearing barred petitioner from relitigating the question whether John Doe summons enforcement procedures apply to this case (*id.* at 9a-10a). The court of appeals also accepted Judge Hull's finding that the summons was issued solely for the purpose of gaining information about the unnamed cash-paying clients and therefore affirmed its decision to treat the summons as a John Doe summons. The court of appeals concluded, however, that, because the clients paid for legal services with large amounts of cash, there was

a "sufficient 'reasonable basis' upon which to issue the John Doe summons" under 26 U.S.C. 7609 (Pet. App. 18a). The court of appeals also agreed with the decisions in *United States* v. *Leventhal*, *supra*, and *United States* v. *Goldberger & Dubin, P.C.*, *supra*, in rejecting petitioner's contention that compulsory compliance with the summons violates the Fifth and Sixth Amendments (Pet. App. 18a-19a). The court further noted (i) that petitioner had abandoned his claim that compliance with the summons would violate the attorney-client privilege and the Tennessee Code of Professional Conduct and (ii) that petitioner's due process argument (that disclosure of the summoned information would encroach on the criminal adversary system) was a new argument that would not be considered by the court for the first time on appeal (Pet. App. 20a-21a).

ARGUMENT

The court of appeals correctly enforced the summons. Its decision does not conflict with any decision of this Court or of any other court of appeals. Further review is therefore not warranted.

1. Section 6050I of the Internal Revenue Code requires "[a]ny person (1) who is engaged in a trade or business, and (2) who, in the course of such trade or business, receives more than $10,000 in cash in 1 transaction (or 2 or more related transactions)" to file a return with respect to such cash received. 26 U.S.C. 6050I(a). The statute requires the return to disclose "(A) the name, address, and TIN [taxpayer identification number] of the person from whom the cash was received, (B) the amount of cash received, (C) the date and nature of the transaction, and (D) such other information as the Secretary may prescribe." 26 U.S.C. 6050I(b)(2). The Secretary of the Treasury has adopted regulations to

implement this statutory disclosure requirement (26 C.F.R. 1.6050I-1). Under these regulations, the disclosure report "must be made on Form 8300" (26 C.F.R. 1.6050I-1(e)(2)).

In *United States* v. *Goldberger & Dubin, P.C.*, *supra*, and *United States* v. *Leventhal*, *supra*, the Second and Eleventh Circuits upheld orders enforcing summonses that were directed to attorneys who failed to report identifying information for cash transactions in violation of 26 U.S.C. 6050I. Those courts concluded that enforcement of the statutory disclosure requirements did not violate the Fifth or Sixth Amendments to the Constitution and rejected the assertion that either the attorney-client privilege or state bar association rules could provide a defense to the disclosure required by federal law. See 961 F.2d at 940; 935 F.2d at 506. See also *United States* v. *Monnat*, 853 F. Supp. 1304 (D. Kan. 1994). The Sixth Circuit agreed with those decisions in this case (Pet. App. 18a-20a). There is thus no conflict among the circuits to warrant further review.

2. Petitioner errs in contending (Pet. 11, 26-27) that the decision in this case conflicts with this Court's decision in *Tiffany Fine Arts, Inc.* v. *United States*, 469 U.S. 310, 322 (1985), and disregards the statutory requirements for the issuance of a John Doe summons under 26 U.S.C. 7609(f).

a. The special John Doe summons procedure applies to situations where the IRS does not know the identity of the taxpayer under investigation. See *Tiffany Fine Arts, Inc.* v. *United States*, 469 U.S. at 316-317. Sections 7609(f) and (h)(2) of the Internal Revenue Code provide that, when an unidentified taxpayer is under investigation, a John Doe summons may be served only after an *ex parte* proceeding in which the IRS establishes that: (i) the summons relates to the

investigation of a particular person or ascertainable group or class of persons; (ii) there is a reasonable basis for believing that such persons may have failed to comply with the internal revenue laws; and (iii) the information sought is not readily available from other sources. See 26 U.S.C. 7609(f)(1)-(3).

In *Tiffany Fine Arts, Inc.* v. *United States*, 469 U.S. at 324, the Court held that the requirements for a John Doe summons do not apply when the IRS serves a summons on a taxpayer with the legitimate, dual purpose of investigating both the tax liability of that taxpayer and the tax liabilities of other, unidentified parties. Unlike the situation in *Tiffany Fine Arts*, the decision of Judge Hull, affirmed by the court of appeals, treated the summons as if it were a John Doe summons issued solely to investigate the liabilities of unnamed, third parties (Pet. App. 11a). The courts below then concluded, on the facts of this case, that the requirements for enforcement of such a summons had been satisfied (*id.* at 11a-18a). The decision in this case thus addresses an issue that was not presented in *Tiffany Fine Arts* and does not conflict with that decision.

b. Petitioner further errs in contending (Pet. 11, 26-27) that the decision below is contrary to the John Doe summons provisions of 26 U.S.C. 7609. Assuming, as the court of appeals did, that the John Doe summons provisions apply to this case,[2] the court correctly

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[2] Judge Jarvis concluded at the pre-enforcement hearing that the summons was issued with respect to the tax liability of the law firm (Pet. App. 36a-38a). Since no appeal was taken from that pre-enforcement decision, res judicata barred relitigation (at the enforcement hearing before Judge Hull) of the question whether the IRS had a purpose other than investigating the liability of the law firm in issuing the summons. See *Montana* v. *United States*, 440 U.S. 147, 153 (1979); *Commissioner* v. *Sunnen*, 333 U.S. 591,

concluded that the requirements of Section 7609(f) have been satisfied. As the court of appeals noted, the factual basis for the summons had "been reviewed by Judge Hull in a 'court proceeding' prior to the enforcement of the summons" (Pet. App. 14a). The fact that this review occurred with the taxpayers present, rather than *ex parte*, cannot be regarded as an infringement of the taxpayers' rights. The court of appeals properly concluded that the "statutory protection to which [petitioner's] clients [were] entitled [had] been afforded to them in spirit" and that, "[a]t this stage of the proceedings," it would "exalt form over substance to make the IRS go through the motions of having an ex parte court proceeding" (*ibid.*). The court of appeals further noted that the "fact that * * * [petitioner's] clients paid for legal services with large amounts of cash [was] a sufficient 'reasonable basis'" for believing that such persons may have failed to comply with the internal revenue laws, as required by 26 U.S.C. 7609(f)(2) (Pet.

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597 (1948). In arguing at the enforcement hearing that the summons in this case was subject to the John Doe procedures, petitioner, for a second time, placed before the district court the same facts and claims regarding the purpose of the summons that were placed before the court at the pre-enforcement hearing. The fact that the pre-enforcement hearing was resolved on jurisdictional grounds does not remove the court's jurisdictional findings from the scope of the doctrine of collateral estoppel. See *Durfee* v. *Duke*, 375 U.S. 106 (1963) (where a court had decided that a parcel of land was in Nebraska in resolving a jurisdictional issue, a party could not later argue that the land was in Missouri). See also *United States* v. *First National State Bank of N.J.*, 616 F.2d 668, 675 (3d Cir.), cert. denied, 447 U.S. 905 (1980) ("[T]he parties will be collaterally estopped [in future litigation] from challenging any fact necessary to our legal conclusion that the summonses are valid.").

App. 17a-18a).[3] See also *United States* v. *Goldberger & Dubin, P.C.*, 935 F.2d at 505-506. Cf. *United States v. Bisceglia*, 420 U.S. 141, 149 (1975) ("[The IRS] has a legitimate interest in large or unusual financial transactions, especially those involving cash."). This fact-bound conclusion does not warrant further review. [4]

3. Petitioner contends (Pet. 11-17) that compliance with the summons would violate ethical rules governing the practice of attorneys. As the court of appeals correctly noted, however, petitioner "abandoned this argument on appeal" (Pet. App. 21a n.14). Moreover, in *United States* v. *Goldberger & Dubin, P.C.*, *supra*, the Second Circuit correctly held that 26 U.S.C. 6050I was enacted precisely "to enable the IRS to identify taxpayers with large cash incomes" and that, if this statute were thought to conflict with the attorney-client privilege, "the latter must give way to the former." 935 F.2d at 506. Accord, *United States* v. *Leventhal*, 961 F.2d at 940 ("The Florida Bar's Rules of Professional Conduct, however, do not prohibit Leventhal from disclosing

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[3] The court of appeals correctly concluded that the other two criteria under Section 7609(f) were "easily satisfied" in this case — *i.e.*, (i) that the summons relates to the investigation of a particular person or ascertainable group or class of persons (26 U.S.C. 7609(f)(1)); and (ii) that the information sought is not readily available from other sources (26 U.S.C. 7609(f)(3)). Pet. App. 15a, 16a & n.10.

[4] *Ratzlaf* v. *United States*, 114 S. Ct. 655 (1994), on which petitioner relies (Pet. 22), is inapposite. In reversing the defendant's conviction for structuring financial transactions to avoid currency reporting requirements in *Ratzlaf*, this Court held that the government must prove that the defendant acted with knowledge that his conduct was unlawful under the anti-structuring law. See 114 S. Ct. at 663. *Ratzlaf* did not involve the standards for issuance of John Doe summonses under Section 7609(f) of the Internal Revenue Code.

the information specified in the IRS summons"). See also *Caplin & Drysdale, Chartered* v. *United States*, 491 U.S. 617, 632-633 n.10 (1989) ("[t]he fact that a federal statutory scheme authorizing contingency fees * * * is at odds with model disciplinary rules or state disciplinary codes hardly renders the federal statute invalid").

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

DREW S. DAYS, III
Solicitor General

LORETTA C. ARGRETT
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CHARLES E. BROOKHART
JOHN A. DUDECK, JR.
Attorneys

SEPTEMBER 1994

ABA Opinion 320 (1968) provides that

Formal Ethics Opinions

Where .. (a client) knowingly and after full disclosure participates in a (legal fee) financing plan which requires the furnishing of certain information to the bank, clearly by his conduct has waived any privilege as to that information.

Obviously, a competent client with full knowledge of the information to be disclosed, can consent to the disclosure of a confidence or secret including the release of his name as a client of a specific attorney and his credit history with that attorney.

The Ethic Committee in applying the discussion above to the specific questions asked, adopts the following statements:

1. A lawyer may reveal the names and addresses of clients (a) only where that information is in the public record as a result of the attorney's representation of that client, (b) where the circumstances of the representation make it obvious that the client does not expect confidentiality as to the existence of the attorney/client relationship, or (c) where the client has specifically authorized the release of that information in writing.

2. An attorney may reveal the credit history of a client only where the client has specifically authorized the release of that information in writing.

The authorization in both instances must be sufficiently specific to allow the client to be fully aware of the intended use of the information to be revealed.

We are fully aware of ABA Informal Opinion 1200

which provides that, "... a lawyer may reveal the name of his client unless the client has requested that the professional relationship be held inviolate, or the disclosure would be embarrassing or would be likely to be detrimental to the client. "We are of the opinion, however, that the client is in a better position than the attorney to determine what he considers to be embarrassing or detrimental. Therefore, we feel to have him specifically authorize the release of information is the more proper course.

We point out, however, that if a communication is not within the scope of the professional employment of an attorney, the client cannot reasonably expect to be protected by the attorney/client privilege. See Hughes v. Meade, 453 SW(2d) 535 (Ky 1970).

BOARD OF PROFESSIONAL RESPONSIBILITY OF THE SUPREME COURT OF TENNESSEE

ADVISORY ETHICS OPINION 90-A-414

Inquiry is made concerning the ethical propriety of a lawyer disclosing to the Internal Revenue Service information revealing the identity of a client who pays a cash fee in excess of $10,000 as required by 26 U.S.C. Section 6050I, absent an informed consent by the client or a properly perfected order from a court of competent jurisdiction.

Disciplinary Rule 4-101(B) of the Code of Professional Responsibility prohibits an attorney from knowingly revealing a confidence or secret of his client unless the client consents after fuil disclosure.

26 U.S.C. Section 6050I requires anyone in trade or business, who in the course of that business receives more than $10,000 in cash, to file a return to the IRS revealing the identity of the person from whom the cash was received, the amount of cash, date and nature of transaction, etc.

In resolving the apparent conflict between the law and the Disciplinary Rules, a review of ethical authorities reveals that apparently no reported cases exist which discuss the conflict between the duty to protect client confidences and secrets and the reporting requirements of 26 U.S.C. Section 6050I.

However, the Ethics Advisory Committee of the National Association of Defense Lawyers issued Formal Opinion 89-1 on November 22,1989 which cites several state and local ethics committee opinions that conclude that the duty of confidence extends to such I.R.S. reports. Florida

Bar Staff Opinion TEO87008 (Set. 4,1986), Chicago Bar Association Opinion 86-2 (May 11, 1988), State Bar of Georgia Advisory Opinion No. 41 (9-24-84).

Section (C) of Disciplinary Rule 4-101 of the Code of Professional Responsibility sets forth limited exceptions within which the attorney may reveal secrets and confidences of the client without the client's consent. DR 4-101(C)(2) permits revealing the confidences and secrets of the client without client consent when permitted under Disciplinary Rules or required by law or court order.

This particular inquiry involved attorneys being summoned by the IRS to compel the attorneys to reveal the identy of clients who have paid cash fees in excess of $10,000.

It is the opinion of this office that upon being subpoenaed, the attorney should take the following steps in order to fulfill his ethical duty under DE 4-101.

1. The attorney should advise the client of the requirments of 26 U.S.C. 6050I, so that the client can make an informed decision as to whether to insist on confidentiality or to consent to the disclosure of identifying information.

2. The attorney should file a motion to quash the subpoena, asserting attorney-client privilege.

3. The attorney should develop all factual and legal issues relating to privilege.

A caveat to be mindful of is set forth in DR 7-103(C) of the Code of Professional Responsibility which states:

> It is unprofessional conduct for a prosecutor to subpoena an attorney to the Grand Jury or to any state

or federal administrative body with a similar function without prior judicial approval in circumstances where the prosecutors or such other government attorneys seek to compel attorney-witness to provide evidence concerning a person who at the time is represented by the attorney-witness.

This opinion is based on the premise that the attorney has no reason to believe that the cash paid as a fee was obtained by the client illegally. Any doubts the attorney might have should br resolved in favor of the client.

This Advisory Ethics Opinion is rendered pursuant to Supreme Court Rule 9 (26) and accordingly is not binding and offers no security.

This 26th day of March, 1990.

/S/ Lance B. Bracy
Lance B. Bracy
Chief Disciplinary Counsel

/S/ Laura L. Chastain
Laura L. Chastain
Disciplinary Counsel

103D CONGRESS
2D SESSION **H.R. 4321**

To amend the Internal Revenue Code of 1986 to exempt cash payments of legal fees from the reporting requirements relating to cash received in a trade or business.

IN THE HOUSE OF REPRESENTATIVES

May 2, 1994
Mr. Kopetski introduced the following bill,
which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exempt cash payments of legal fees from the reporting requirements relating to cash received in a trade or business.

Be it enacted by the Senate and House of Representatives of the United States of of America in Congress assembled,

SECTION 1. EXEMPTION OF CASH PAYMENT OF LEGAL FEES FROM REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subsection (c) of section 6050I of the Internal Revenue Code of 1986

(relating to returns relating to cash received in trade or business) is amended by adding at the end the following new paragraph:

2

"(3) PAYMENTS OF LEGAL FEES.—The name, address, and TIN of an individual shall not be required to be included in any return under this section with respect to cash received from such individual by an attorney as payment for legal services performed by such attorney for such individual."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

LR83.6 Code of Professional Conduct

The code of Professional Conduct adopted by the Supreme Court of Tennessee is hereby adopted as rules of professional conduct insofar as they relate to matters within the jurisdiction of this court.

LR83.7 Disbarment

(a) Conduct Subject to Discipline. The court may impose discipline on any member of its bar who has violated the Code of Professional Conduct as adopted by the Supreme Court of Tennessee, or has engaged in unethical conduct tending to bring the court or the bar into disrepute. The court may also discipline any member who has been suspended or disbarred from the practice of law by the state in which he or she is a member, or by any court of record. Discipline which may be imposed includes disbarment, suspension, reprimand, or such other further disciplinary action as the court may deem appropriate and just. Nothing in this rule shall be construed as limiting in any way the exercise by the court of its inherent contempt power or its authority to impose other sanctions provided under federal law and the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Petitioner,

V. M-18-304

FISCHETTI POMERANTZ & RUSSO, RONALD P. FISCHETTI, and MARK F. POMERANTZ,
Respondents.

UNITED STATES OF AMERICA,
Petitioner,

V.

GOLDBERGER & DUBIN, P.C., PAUL A. GOLDBERGER, and LAWRENCE DUBIN,
Respondents.

March 13, 1990
11:00 a.m.

Page 50, lines 17-25.

"I[] grant the application that I include in my disposition a statement indicating that the respondents have conducted themselves ethnically (sic) and responsibly in attempting to obtain a judicial ruling about their responsibilities under 26 U.S.C. 6050I, and I want to just elaborate on that for just a minute.

The documents that have been submitted to me spell out an almost constant effort by various elements of the defense bar to cope with the responsibilities which 26 U.S.C. 6050I have placed upon defense counsel, criminal defense counsel.

Page 51, lines 1-15

There have been interpretations by various ethics committees of bar associations, including the American Bar Association, to officials of the Department of Justice and of the Internal Revenue Service, all of which have dealt precisely with the problems that have been discussed at this hearing this morning.

The problems that the respondent law firms were wrestling with are, therefore, problems which have been faced by many, many criminal law practitioners, and it is certainly clear to me, maybe the only thing clear in this case, is that the respondents here have taken a responsible position."

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA	§
Petitioner,	§
	§
VS.	§
CASE NO. 91-41-MISC-ORL-18	§
	§
(RBK)	§
ROBERT A. LEVENTHAL,	§
personally and in his	§
representative capacity	§
as partner/officer of	§
Leventhal & Slaughter, P.A.,	§
Respondent.	§

ORDER

A petition was filed by the United States on behalf of the Internal Revenue Service to have defendant furnish the names of parties who made payment to respondent's law firm of two certain payments for legal services. Respondents correctly declined to answer on account of attorney-client privilege without direction of the court. The attorney-client privilege protects confidential communications. However, "fee arrangements usually fall outside the scope of the privilege because such information ordinarily reveals no confidential professional communication between attorney and client, and not because such information may not be incriminating." In re Osterhoudt, 722 F.2d 591, 593 (9th Cir. 1983); United States v. Ricks, 776 F.2d 455, 465 (4th Cir. 1985). see also In re Grand Jury Matter, ___ F.2d ___ [4th Cir. 2/25/91] #90-5339-90-5340, [photo copy of slip

opinion attached]. See In re Grand Jury Proceedings (Newton), 899 F.2d 1039, (11th Cir. 1990).

Respondent is therefore, directed to supply the name of the person or persons who made payment of the aforesaid sums.

It is SO ORDERED at Orlando, Florida, this 12th day of March 1991.

RICHARD B. KELLAM
United States District Judge
Sitting by designation

Copies to:

All counsel of record